

MONTANA STATE AUDITOR

JOHN MORRISON
STATE AUDITOR



COMMISSIONER OF INSURANCE
COMMISSIONER OF SECURITIES

February 16, 2007

Daren Engellant
Glacier Insurance Strategies
112 Cooperative Way
Suite A
Kalispell, MT 59901

RE: Montana Retail Association's Health Plan

Dear Daren:

Thank you for your letter of February 7, 2007. It was good to see you at the Leadership Flathead Program in Kalispell. The purpose of this letter is to respond to your questions about the qualified association status of the Montana Retail Association's Health Plan.

First, the information I can provide to you is somewhat limited because any compliance issues of Western Mutual Insurance must be discussed directly with Western Mutual and not with a producer. We communicated with Tina Thomas, Western Mutual's compliance specialist, about some of these issues. I encourage you to talk with Tina about any questions you may still have after reviewing this letter.

You will note the Montana Retail Association applied to become a qualified association in the Insure Montana Program on November 17, 2005. The MRA's application stated that it was not in compliance with Section 33-22-1809, Montana Code Annotated. On January 6, 2006, Insure Montana Administrator Todd Lovshin sent a letter to the MRA explaining it could not be admitted as a qualified association unless it was in compliance with Section 1809. Lovshin's letter requested more information. The MRA confirmed they were not in compliance with Section 1809, but maintained that they were exempt from this section as a result of the letter from Frank Cote ten years or so ago. After getting the program successfully up and running, Lovshin left for another position in August of 2006. We received a call from you in October. It was necessary for us to deny MRA's application to be a qualified association, but I apologize we did not convey that denial more clearly and promptly.

Your letter also raises the "exemption" from Section 1809 based on the letter from former Auditor Mark O'Keefe's administration. That letter is no longer valid for several reasons. First, the section on which it is based, Section 1803(25), no longer exists. Second, the Federal Health Insurance Portability Act (HIPA) has imposed new requirements since then. Also, you

(Changed Sections)
What are the changes

Daren Engellant
Page 2
February 16, 2007

should be aware WMI has advised us and other correspondents they do not rely on that letter. WMI does believe they are exempt from compliance with Section 1809, but not because of the ten-year-old letter from the Auditor's Office.

In order to be a qualified association under Section 1809, an association that is using tier rating based on health status of each small employer group must comply with the rating provisions of Section 1809. As you know, Section 1809 establishes a rating band that limits the variation of rates within certain classes of business. We will continue our discussions with WMI about whether the MRA plan complies with Montana group health insurance laws. It is necessary for us to deal directly with them on that issue. I recommend you ask them to keep you posted.

You also asked about other associations that have been approved as "qualified" for the Insure Montana Program. Those associations are: the State Bar of Montana, the Chamber of Commerce, the CPAs, the Logging Association, and the Western Association of Employers. All of them submitted applications stating they were in compliance with Section 1809. All of them also submitted actuarial opinions concerning this fact.

Next, you raised the issue about whether the purchasing pool is in compliance. The purchasing pool is exempted from compliance with Section 1809 by Section 33-22-1815. A purchasing pool is not an association. As you know, Insure Montana is investigating the possibility of moving to community rating. It is important for you to understand that you cannot determine compliance with Section 1809 by simply comparing the rates in Tier 1 to the rates in Tier 10. Actuarial methodology must be used in determining whether the rating variation is acceptable under Section 1809. That is why actuarial certifications are required.

missed
- Non Profit

which
is it?
exemption or
compliance

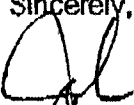
2. how
In summary, other associations that have been approved in the Insure Montana Program have certified their compliance with the rating provisions of Section 1809. The Montana Retail Association is the only association that has submitted an application stating they are not in compliance with Section 1809. The Insure Montana Program has properly determined "qualified associations" will be limited to those that comply with Montana small group law. We will continue our discussions with WMI about these issues.

Finally, please know many Montana Retail Association members are already receiving coverage under the purchasing pool and tax credits under that aspect of the Insure Montana Program. So, while we get things worked out with WMI, we are providing a benefit to hundreds of small businesses, including MRA members.

Daren Engellant
Page 3
February 16, 2007

I hope this answers some of your questions. I look forward to resolving remaining issues with WMI. In the meantime, best wishes.

Sincerely,



JOHN MORRISON
Montana State Auditor
Commissioner for Securities and Insurance

Cc: Donald Dulle, Flathead Business & Industry Association
Brad Griffin, Montana Retail Association
Gordon Higgins, Deputy State Auditor
Lisa Crowley, Administrator, Insure Montana Program
Kate McIvor, Insure Montana Board Chair